

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.1574 OF 2003**

The State of Maharashtra

...Appellant

vs.

Vitthal Sakharam Bhoye

...Respondent

Mr.A.S.Shitole, A.P.P. for State
Ms A.P.Bhide for the Respondent

**CORAM: A.S.OKA,J.
DATE : SEPTEMBER 20,2006.**

P.C.:

1. Heard learned A.P.P. for State. The offence alleged against the Respondent is under section 26-A, 26-B, 26-D and 26-H of Indian Forests Act. The allegation against the Respondent is that the Respondent encroached upon a land vesting in the Forest Department by ploughing the said land and by levelling it. Further allegation is that by encroaching upon the land vesting in the Forest Department, the Respondent obstructed the public servant in discharging the public function. It is alleged that the damage has been caused by the Respondent to the land vesting in the Forest Department.

2. After having heard the learned A.P.P. for State, after perusing the impugned Judgment and Order and deposition of the P.W.No.1 who was the only witness examined by the prosecution, I find that no case is made out for grant of leave. In the cross examination P.W.No.1 admitted that a gazette showing the vesting of the land in the Forest Department was not produced.

The learned Trial Judge observed that the only document which was produced was a map of the land in question. The learned Trial Judge has observed that even 7/12 extract was not produced to show that the land has been declared as forest land or that the same was vesting in Forest Department. If this is the state of affairs, no fault can be found with the order of acquittal. The view taken by the learned Trial Judge is a possible view which could have been taken on the basis of material on record. Appeal is dismissed.

JUDGE